And that is why it is so important and why it is appropriate that the Senate really understand exactly where we are and what we are about.

We have had a long discussion about the steel mill seizure, about the scope of Presidential powers. We went through last week the various executive powers that exist inherently and those which do not. We went through the particular legislation which grants the President specific powers with respect to Federal procurement and the references that have been made to that in the excellent memoranda that was provided by Attorney General Reno. We have gone into considerable detail about exactly who was affected and impacted by the practice of permanently replacing striking workers.

And then we had a review for the Senate of the public policy issues in question, about why this Executive order makes eminently good sense in terms of the President's responsibility to oversee procurement by Federal agencies.

We heard a great deal around here some years ago, and I think many of us joined in the sense of outrage when we heard about the costs of ashtrays being $200 to $300, toilet seats at $1,500, $1,800, the abuses in terms of procurement policy, primarily in the Defense Department, but in other agencies as well. We have heard those stories and all of us are appalled by them.

Now we have a President that is trying to do something about making sure that the taxpayer is going to get a dollar's value for a dollar invested by making sure that the contracts are going to be delivered and delivered on time and that there is going to be good quality in terms of the purchases that are made primarily in the areas of defense and weapons and weapons systems and those contracts that are related to national security, but in other areas as well.

We have taken some time, although I intend to take a little more time later on this afternoon, to give examples of how productivity and quality have been adversely affected when permanent striker replacements were hired—what happens when because of the replacement workers' lack of skills and experience, of the conflict that exists in the plant and factory, the quality and efficiency of work is impaired.

The President has taken notice of that and we will share those experiences with the Senate. He understands it and says: ''Look, on this issue, I'm going to side with the taxpayers to make sure that we are going to get a good product on time with good quality from skilled craftsmen and women in this country. I am not going to take a chance in the areas of national security to get an inferior product, either for our defense or in the other areas of procurement. And, also, I am going to make it very clear that we are not going to give companies like Diamond Walnut Company, for example, that have hired permanent replacements, additional financial incentives for sales overseas that result in millions of dollars of profit for them at taxpayers' expense. We are not going to reward companies that treat their workers this harshly.''

So, Mr. President, these are some of the points that we will have a chance to develop further during the course of the discussion and debate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

HEALTH CARE

Mr. SIMON. Mr. President, before I comment on the Kassebaum amendment that is before us, let me comment on a hearing I just came from that Senator KASSEBAUM and Senator JEFFORDS have chaired, on the whole question of health care and where we are going.

The last few witnesses commented on the whole question of ERISA's assumption of responsibilities that prohibits States from moving ahead to have health care coverage for all their people.

Frankly, we cannot have it both ways. The American people are, more and more, demanding some kind of health care protection. I had three town meetings a week ago Saturday in Illinois. One man got up at one town meeting and said, ''I am 59 years old, I have had a heart attack, I cannot get health insurance that I can afford. What is going to happen to me?'' When he said it, it started triggering others getting up, standing up, telling their stories.

Every other Western industrialized nation protects all their people. We are the only one that does not. If that is a conscious decision we want to make, not to protect all of our citizens—and incidentally the number now is about 41 million that are unprotected and the projections that were made in the hearing yesterday are that will go to 50 million 5 years from now. We have gone from 67 percent of employers covering their people in 1980, down close to 50 percent now. The problem is getting worse.

But if the Federal Government is unwilling to act, we, at least, have to be willing to let North Carolina and Illinois and other States that want to protect all their citizens act. We can set it up in such a way that companies that are engaged in interstate commerce that protect their employees will be exempt by the State so we do not present a problem for business.

But we cannot have it both ways. There are just too many people who are hurting. Mr. President, 50 million people in 5 years means one out of five Americans—really more than that, because those over 65 are already covered through Medicare. But more than one out of five Americans are without health care coverage. That is just not the kind of choice we can make. The people in the gallery up there, one out of five are not covered. No one wants to volunteer for that.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 331

Mr. SIMON. Mr. President, let me talk about the other issue that is before us and that is striker replacement. In every Western industrialized nation with four exceptions permanent striker replacement is illegal. The exceptions are Great Britain, Hong Kong, Singapore, and the United States.

We have by tradition not done that. The Presiding Officer used to be in business in North Carolina. I used to be in business in Illinois. And we operate within certain traditions in addition to the law, and those traditions we have generally followed. We are starting to move away from those traditions and I think that is not a healthy thing. One of the reasons that is happening is because such a small percentage of our work force is organized. When you exclude Government employees, only 11.8 percent of working men and women in the United States belong to unions. That is far lower than Canada, which is around 35 percent; Western Europe 40 to 90 percent; Japan somewhat similar.

George Shultz, who was both Secretary of State and Secretary of Labor under Republican administrations, made a speech not too long ago in which he said we have an unhealthy amount of our working force that belongs to unions, because we are not getting some of the factors there that we ought to have.

One of the things that is happening as a result of that is our wages are not going up. When wages do not go up then corporations and employers do not buy labor-saving devices, so we become less productive per man-hour. Today the United States, in manufacturing pay per hour, we are $14.77. France is $15.23; Canada is $16.02; Italy, $16.41; Austria, $17.01; Netherlands, $17.85; Denmark, $18.60; Belgium, $18.94; Finland, $20.76; Switzerland, $20.83; Sweden, $20.93; Germany, $21.53; Norway, $21.86.

I can remember, back in 1986 we were still at the top of the heap. That is not that long ago. And the Presiding Officer will forgive me for saying he is old enough to remember, along with me, when there was a huge gap between the United States and the other countries. I can remember serving in Germany in the Army from 1951 to 1953 when the average German was just really struggling. I do not know what their percentage of U.S. wages at that point

was. But it must have been one-fifth or one-seventh of the wages of the United States.

I mention all of this simply to suggest that what we need in this area of labor-management relations is balance. I do not think the President's action takes away any of our prerogatives. The President's action does not pass what we turned down here, Senate Resolution 55, striker replacement. That called for a major overhaul of our labor-management relations. The President's action simply says, if you are going to have a Federal contract, you cannot have permanent striker replacements. I think that makes sense in labor-management relations. I think it also makes sense in terms of quality of product. If anyone thinks that permanent striker replacements provide the same quality of work as a former employee, take a look at baseball today. Striker replacements are not the same quality as those who played for the major leagues.

So I think it makes sense from the viewpoint of quality product that we buy. I think it makes sense from the viewpoint of labor-management relations.

I hope that—we have had one cloture vote and we are going to have at least one more—we continue to prevent the passage of the Kassebaum amendment. Again, my belief is that what we need is a careful balance between labor and management. I think things have moved somewhat out of balance.

I would add I also am a great believer in labor and management working together much more. The Germans have what they called mitbestimmung, where there is a labor representative on a corporate board who is there except when they talk about labor-management relations. Then he or she absents himself or herself. The advantage of that is they get to know the problems of the corporation and the corporation gets to understand the viewpoint of labor. I think we should not wait until we are near time for contracts to expire and then all of a sudden we sit down and start working together.

So my hope is that we will continue to block the passage of this amendment and that we can move ahead in a constructive direction, not only on this issue but on many other issues in labor-management relations.

Mr. President, I do not see anyone else seeking the floor right now. If so I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFFIRMATIVE ACTION

Mr. DOLE. Mr. President, to his credit, President Clinton has initiated a long-overdue review of all Federal affirmative action laws.

After nearly 30 years of government-sanctioned quotas, timetables, set-asides, and other racial preferences, the American people sense all too clearly that the race-counting game has gone too far. The President is responding to these pressures, and his review could not have come at a more propitious time.

But first things first. As the President conducts his review, he should also revisit some of the misguided affirmative action policies of his own administration.

For starters, he should take a few moments to read the Justice Department's brief in the Piscataway Board of Education case, which is now pending before the Third Circuit Court of Appeals.

In Piscataway, the Justice Department has taken the position that, when an employer is laying off employees, an individual American can legally be fired from her job because of her race. That is right: Our Nation's top law enforcement agency says that it is perfectly legal, as a way to achieve work force diversity, to tell a person that she can no longer keep her job because she happens to have the wrong skin color.

This is an insidious position—one that goes beyond current law and one that the President should emphatically reject.

I note that he had a little meeting as reported in the Washington Post last night with a number of people. I hope they discussed the Piscataway case, and I hope the President might respond to this Piscataway case.

The bottom line is that the President's affirmative action review cannot have credibility if the affirmative action policies of his own administration are fundamentally flawed. Correcting these policies, not reviewing old ones, should be the President's first priority.

With that said, let's remember that to raise questions about affirmative action is not to challenge our anti-discrimination laws. Discrimination is illegal. Those who discriminate ought to be punished. And those who are individual victims of illegal discrimination have every right to receive the remedial relief they deserve.

Unfortunately, America is not the color-blind society we would all like it to be. Discrimination continues to be an undeniable part of American life.

But fighting discrimination should never become an excuse for abandoning the color-blind ideal. Expanding opportunity should never be used to justify dividing Americans by race, by gender, by ethnic background.

Race-preferential policies, no matter how well-intentioned, demean individual accomplishment. They ignore individual character. And they are absolutely poisonous to race relations in our great country.

You cannot cure the evil of discrimination with more discrimination.

Mr. President, last December, I asked the Congressional Research Service to provide me with a list of every Federal law and regulation that grants a preference to individuals on the basis of race, sex, national origin, or ethnic background. Frankly, I was surprised to learn that such a list had never been compiled before, which, I suppose, speaks volumes about how delicate this issue can be.

Earlier this year, the CRS responded to my request with a list of more than 160 preference laws, ranging from Federal procurement regulations, to the RTC's bank-ownership policies, to the Department of Transportation's contracting rules. Even NASA has gotten into the act, earmarking 8 percent of the total value of its contracts each year to minority-owned and female-owned firms on the theory that these firms are presumptively disadvantaged. They may not be disadvantaged at all.

As a follow-up to the CRS report, I have written to my colleagues, Senators BOND and KASSEBAUM, requesting hearings on the most prominent programs identified in the report—the Small Business Administration's section 8(A) program and Executive order 11246, which has been interpreted to require Federal contractors to adopt timetables and goals in minority- and female-hiring.

These hearings, I expect, will demonstrate that there are other, more equitable ways to expand opportunity, without resorting to policies that grant preferences to individuals simply because they happen to be members of certain groups. And unless the hearings produce some powerful evidence to the contrary, it is my judgment that the section 8(a) program should be repealed outright.

The hearings also provide us with the opportunity to rediscover the original purpose of Executive Order 11246. As signed by President Johnson, the Executive order required Government contractors to agree,

> * * * not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin * * * [and] to take affirmative action to ensure that applicants are employed * * * without regard to their race, creed, color, or national origin.

In other words, Executive Order 11246 defined affirmative action to mean ''non-discrimination.''

I believe in nondiscrimination. Everybody in this body should believe in nondiscrimination against race, color—and you can add disability to that list, too.

There was no mention of timetables or goals. No mention of racial preferences. These concepts were later grafted onto the Executive order not by Congress, but by regulation, the work of Federal bureaucrats.